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Social and human rights questions: human rights

Cuba: draft resolution

Question of the protection of human rights and fundamental freedoms in the context of international military operations launched to combat terrorism

The Economic and Social Council,

Guided by the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,[1]

Recalling the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good neighbourliness and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Guided by the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[3] and other basic instruments regarding the international protection of human rights as well as universal humanitarian norms, as set forth in the Geneva Conventions of 12 August 1949,[4]

Recalling Commission on Human Rights resolutions 2004/44 of 19 April 2004 and 2004/87 of 21 April 2004,

Reaffirming that every human being has the inherent right to life and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or

[1] General Assembly resolution 217 A (III).
[2] See General Assembly resolution 2200 A (XXI), annex.
[3] General Assembly resolution 39/46.
[4] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

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punishment, and deeply concerned on alleged and documented cases of violations of human rights and of international humanitarian law in the context of international military operations launched to combat terrorism,

Deeply concerned that the above-mentioned alleged and documented violations of human rights and international humanitarian law in the context of international military operations launched to combat terrorism includes: extrajudicial executions; enforced disappearances; arbitrary detentions, including massive arrests; torture and other cruel, inhuman or degrading treatment or punishment such as beatings, electric shocks, sleep deprivation, prolonged forced standing and kneeling, humiliation, psychological abuse, hooding, use of dogs to frighten and intimidate detainees with threats of attack, keeping detainees naked for several days at a time, threatening and sodomizing detainees and prolonged solitary confinement in cells devoid of daylight; sexual abuse; coercive interrogation practices; taking pictures of dead detainees; excessive use of force against persons deprived of their liberty; and holding them in dangerous places where they are not protected from shelling,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances and that the prohibition of torture is explicitly affirmed in all relevant international instruments,

Deeply concerned that according to reliable information an undisclosed number of persons detained in the context of international military operations launched to combat terrorism are held at present in detention camps, in a situation of deprivation of some of their fundamental human rights,

Concerned at the consequences to the protection of human rights of the growing involvement and participation of military private corporations and individuals under private contracts in tasks of protection and security in the context of international military operations launched to combat terrorism,

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, in all forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Taking note of recent positive measures adopted by States to promote respect and to ensure compliance with their obligations under international instruments of human rights and international humanitarian law in the context of international military operations launched to combat terrorism;

Noting the work already done by the Commission on Human Rights and several of its special procedures, the General Assembly, the Secretary-General and different components of the Secretariat, the Office of the United Nations High Commissioner for Human Rights, the international humanitarian organizations, several intergovernmental and non-governmental organizations, some regional organizations, the specialized agencies and the human rights treaty bodies in promoting protection of human rights and fundamental freedoms in the context of international military operations launched to combat terrorism,

Noting in particular general comment 31 of the Human Rights Committee, adopted on 29 March 2004, and the joint statement on the protection of human rights and fundamental freedoms in the context of anti-terrorism measures of the participants at the eleventh annual meeting of the special rapporteurs, representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme,

1. *Reaffirms* that States should respect and ensure compliance with their obligations under international instruments of human rights and international humanitarian law in the context of international military operations launched to combat terrorism;

2. *Demands* that States and other actors in international military operations launched to combat terrorism prevent the occurrence of extrajudicial executions, enforced disappearances, torture and other cruel, inhuman or degrading treatment or punishment and other grave violations of international human rights and humanitarian law and take effective action to combat and eliminate any violation of this kind in all forms and manifestations;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of violations of international human rights and humanitarian law in the context of international military operations launched to combat terrorism, to identify and bring to justice those responsible, while ensuring the right of every person to a fair hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures in order to bring an end to impunity and to prevent the recurrence of such violations;

4. *Urges* States and other actors in international military operations launched to combat terrorism to undertake all necessary and possible measures, in conformity with human rights law and international humanitarian law, to prevent the loss of life of civilian persons, in particular the lives of women and children;

5. *Appeals* to States and other actors in international military operations launched to combat terrorism to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person, in accordance with the relevant international instruments of human rights and humanitarian law;

6. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment and any action or attempt by States or public officials to legalize or authorize them under any circumstances, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

7. *Requests* all States and other actors engaged in international military operations launched to combat terrorism to pay special attention to the procedures and practices used by their respective agents to obtain information from detainees or from civilians, particularly during the interrogation of detainees, so that they can ensure that these procedures are in compliance with the international instruments of human rights and of international humanitarian law;

8. *Encourages* all United Nations bodies, including the human rights treaty bodies, acting within their mandates, and the specialized agencies, as well as governmental, intergovernmental and non-governmental organizations, and the special representatives, special rapporteurs and working groups of the Commission on Human Rights to pay particular attention to, exchange information on, and provide the United Nations High Commissioner for Human Rights with, all relevant information in their possession on violations of human rights in the context of international military operations launched to combat terrorism;

9. *Requests* the United Nations High Commissioner for Human Rights to prepare and submit to the fifty-ninth session of the General Assembly, a comprehensive report on the basis of information and comments received from Governments, intergovernmental and non-governmental organizations, the specialized agencies, special procedures of the Commission on Human Rights and human rights treaty bodies, which would serve as a vital complement to the report already requested by the General Assembly in its resolution 58/187 of 22 December 2003;

10. *Requests* the Commission on Human Rights to examine this issue as a matter of priority at its sixty-first session.